

**Before the  
Federal Communications Commission  
Washington, D. C. 20554**

In the Matter of	)	
	)	
Application of Qwest Communications International,	)	
Inc., for Authorization to Provide In-Region,	)	WC Docket 02-189
InterLATA Services	)	
in the States of Montana, Utah,	)	
Washington and Wyoming	)	

**Reply Comments of the Wyoming Public Service Commission  
(Issued August 26, 2002)**

On July 12, 2002, Qwest Communications International, Inc. (Qwest) applied to the Federal Communications Commission (Commission) under Section 271(d)(3) of the federal Telecommunications Act of 1996 (the federal Act) for the purpose of receiving a determination from the Commission on whether Qwest should be granted authority to provide in-region, interLATA services in Wyoming. The Wyoming Public Service Commission (Wyoming PSC) submitted comments and recommendations to the Commission, under Section 271(d)(2)(B) of the federal Act (the written consultation), on August 1, 2002. We now respectfully submit our Reply Comments as provided for by the Commission's Public Notice in WC Docket 02-189. Our Reply Comments concern certain statements by the Department of Justice (DOJ) in its evaluation of Qwest's Section 271 application for Wyoming in WC Docket 02-189 (See, Evaluation of the United States Department of Justice, WC Docket 02-189, filed with the Commission on August 21, 2002).

As stated previously, the Wyoming PSC determined that, except for several issues relating to Qwest's Wyoming Performance Assurance Plan (QPAP), Qwest has met the requirements for obtaining authority to provide in-region, interLATA services in Wyoming and that the Commission should approve Qwest's application. The Wyoming proceedings regarding Qwest's Section 271 compliance were carried out in Wyoming PSC Docket No. 70000-TA-00-599. Of concern to the Wyoming PSC are two statements made by the DOJ in its August 21,

2002, evaluation relating to unbundled network element (UNE) rates in Wyoming. The first statement is from page 2 of the DOJ evaluation and states: “It also is unclear whether the UNE rates in Montana and Wyoming, which were developed recently, are appropriately cost-based.” **It is the well-founded and fully supported position of the Wyoming PSC that UNE rates in Wyoming are appropriately cost-based.** Another process conducted by the Wyoming PSC, during Qwest’s Section 271 proceeding, was a separately-docketed proceeding which established total element long run incremental cost (TELRIC) compliant prices for interconnection, collocation and unbundled network elements (UNEs), in addition to the required wholesale discount percentages applicable in Wyoming. The Wyoming proceeding regarding Qwest’s TELRIC compliance was carried out in Wyoming PSC Docket No. 70000-TA-01-700 (the TELRIC Proceeding). The TELRIC Proceeding was an extensive and thorough examination by the Wyoming PSC of Qwest’s TELRIC models and cost studies that began in July 2001 and was ultimately concluded on June 28, 2002. The TELRIC Proceeding included a total of more than five hundred (500) pages of direct testimony and exhibits and over one hundred fifty (150) pages of rebuttal testimony and exhibits of eight Qwest subject matter experts and over one thousand four hundred forty (1,440) pages of Wyoming-specific cost studies. There was also active participation in the TELRIC Proceeding by several intervenors, including the Wyoming Consumer Advocate Staff. The Wyoming PSC conducted more than five days worth of prehearing conferences, public hearings and deliberations on the Qwest TELRIC Proceeding in Wyoming. Attached as Exhibit 1 and made part of these Reply Comments is the Wyoming PSC Order Confirming Bench Decision Approving Stipulation of Parties (the TELRIC Order), issued August 23, 2002, as well as the Stipulation and Agreement, that provides the Wyoming PSC’s ultimate findings of fact and conclusions of law in the TELRIC Proceeding.

The second statement is from page 6 of the DOJ evaluation and states: “The Wyoming PSC extensively reviewed the MCP record<sup>26</sup>; conducted pricing proceedings to establish UNE rates and then accepted adjusted rates based on the new Colorado rates as benchmarks<sup>27</sup>; . . . .” We believe this statement by the DOJ is too broad and misleading concerning the efforts undertaken by the Wyoming PSC to establish Wyoming-specific, cost-based UNE rates. Footnote twenty-seven (27) references pages 6-7 of the Wyoming PSC’s Comments filed with the Commission on August 1, 2002 and paragraphs 4-6 of Attachment J of the Wyoming PSC’s

Comments. Attachment J to our August 1, 2002, Comments is our Order on SGAT Compliance issued July 9, 2002. Paragraphs 4-6 of that document are listed below:

“SGAT Exhibit A: TELRIC Prices and Wholesale Discounts  
for Unbundled Network Elements, Interconnection and Collocation

4. On June 28, 2002, the Commission approved the stipulated TELRIC rates as set forth in Qwest’s compliance filing related to unbundled network elements, collocation and interconnection in Docket No. 70000-TA-01-700. The TELRIC compliance filing is Exhibit A to Qwest’s SGAT. Since that time, Qwest has filed a revised version of Exhibit A containing five new benchmark recurring rates as follows:

Description	Old Rates (7/1/02)	New Rates (7/10/02)
7.6.1 End Office Call Termination: per minute of use	\$0.002447	\$0.001854
7.6.2 Tandem Switched Transport: Tandem Switching, per minute of use	\$0.002116	\$0.000690
9.8.1 Shared Transport: per minute of use - TELRIC based rate	\$0.0017920	\$0.001110
9.10.4 Local Tandem Switching: per minute of use	\$0.003225	\$0.000690
9.11.7 Local Switching: Local Usage: per minute of use	\$0.003685	\$0.001854

Qwest has asked that these new benchmark rates be approved and that they become effective on July 10, 2002. They have been voluntarily lowered by Qwest, to the benefit of interconnecting CLECs; and they have been proposed by Qwest to remove any doubt that its SGAT rates comply fully with the TELRIC pricing mandate of the federal Telecommunications Act of 1996.

5. The existence of a “true up” mechanism with respect to the prices in Exhibit A is acknowledged in footnotes to the July 1, 2002, version of that Exhibit. The “true up” will be dealt with by the Commission in its final order in Docket No. 70000-TA-01-700 -- the TELRIC pricing case.

6. Qwest has asked that the July 1, 2002, version of Exhibit A prices be allowed to go into effect on July 10, 2002, to facilitate its application to the FCC for relief under Section 271 of the federal Act. We find that the prices, including the five voluntary unilateral reductions set forth above, are compliant with our orders in this case and the TELRIC case discussed above. We conclude that these prices should be allowed to become effective on July 10, 2002, as requested.”

The five UNE rate elements listed above are the only ones “accepted as benchmarks” by the Wyoming PSC that were not part of the Wyoming TELRIC Proceeding. We further addressed TELRIC prices for Wyoming in our Order on Consideration of General Compliance issued July 3, 2002, and included as Attachment I to our August 1, 2002, comments to the Commission. Concerning TELRIC prices in that order, we concluded the following:

“TELRIC Prices

18. Under 47 U.S.C. § 252(d), just and reasonable rates for interconnection of facilities and equipment and for network elements must be based on total element long run incremental cost. They must be nondiscriminatory and may include a reasonable profit. In this case, Exhibit A to the SGAT will contain such prices for Wyoming. We will accept Qwest’s compliance filing for use in this case based on our conclusion that the TELRIC prices submitted in Docket No. 70000-TA-01-700 should be accepted as being

in conformance with the approved Stipulation in that case. **We deferred many issues in this case for resolution in the TELRIC proceeding, and they have been successfully dealt with and disposed of there with the setting of a comprehensive list of TELRIC prices applicable in Wyoming and set in accordance with the federal Act.**” (Emphasis added)

On pages 6 and 7 of our initial comments to the Commission, we did discuss certain UNE rates included in the Qwest Exhibit A filed with their Section 271 application with the following: “In Exhibit A, Wyoming Rates, to the Wyoming SGAT filed by Qwest with its Application to the Commission, footnote 1 identifies certain rates as “Rates not addressed in Docket No. 70000-TA-01-700.” The Wyoming PSC therefore expresses no opinion about the TELRIC compliance of these rates.” There are only thirty-eight (38) elements out of over nine hundred (900) separate elements in the Wyoming Exhibit A that have the “footnote 1” identifier. That means that approximately 3% of the rates for interconnection, collocation, wholesale discounts and UNEs for Qwest were not specifically addressed by the Wyoming PSC.

The TELRIC Order, Exhibit 1 to these Reply Comments, contains additional evidence and findings by the Wyoming PSC that the UNE rates for Wyoming are appropriately cost-based. As we stated in paragraph 84 of the TELRIC Order: “The Commission further finds and concludes that the stipulated rates and wholesale discounts for UNEs, collocation and interconnection services as reflected in the Revised Compliance Filing Exhibit A, which was filed on June 26, 2002, and accepted at the Commission’s open meeting on June 28, 2002, with an effective date of July 1, 2002, are reasonable and were established in a manner consistent with TELRIC principles that have been mandated by the federal Act in section 252(d) and promulgated by the FCC initially in its Local Competition Order.” We also stated in that paragraph: “The Commission further finds that the wholesale discount rates, as referenced in the Stipulation and as revised and corrected in the Revised Compliance Filing Exhibit A, which were based upon the requirement of section 252(d)(3) of the federal Act, and are consistent with discount rates that have been found to be reasonable in other states, constitute and provide reasonable and appropriate wholesale discount rates for the Company’s operations in the state of Wyoming.” In the TELRIC Proceeding we did approve rates for certain collocation elements established by the Colorado Public Utilities Commission based on the

facts that these rates were developed on the basis of regional inputs to Qwest's cost studies and fell within a reasonable range of TELRIC rates for Wyoming.

### **Conclusion**

Based on the details and analysis presented above and subject to the Commission's own review of the rates for the above described thirty-eight elements not addressed by the Wyoming PSC, the Wyoming PSC encourages the Commission to find that UNE rates in Wyoming are appropriately cost-based pursuant to the Commission's TELRIC methodology and that the Commission grant Qwest authority to provide in-region, interLATA services in Wyoming.

MADE and ENTERED at Cheyenne, Wyoming, on August 26, 2002.

PUBLIC SERVICE COMMISSION OF WYOMING

/s/ Steve Ellenbecker  
STEVE ELLENBECKER, Chairman

/s/ Steve Furtney  
STEVE FURTNEY, Deputy Chair

/s/ Kristin Lee  
KRISTIN LEE, Commissioner

(SEAL)  
Attest:

/s/ David J. Lucero  
DAVID J. LUCERO, Assistant Secretary



**BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING**

IN THE MATTER OF THE APPLICATION	)	
OF QWEST CORPORATION, FOR	)	DOCKET NO. 70000-TA-01-700
AUTHORITY TO OPEN AN UNBUNDLED	)	(RECORD NO. 6768)
NETWORK ELEMENTS TELRIC COST	)	
DOCKET AND FOR APPROVAL OF THE	)	
TELRIC COST STUDIES AND RELATED	)	
UNBUNDLED NETWORK ELEMENT AND	)	
INTERCONNECTION PRICES	)	

**APPEARANCES**

**ROGER C. FRANSEN** of Hickey, Mackey, Evans & Walker,  
Cheyenne, Wyoming, and  
**TED D. SMITH**, Attorney at Law,  
Stoel Rives, LLP,  
Salt Lake City, Utah,  
for the Applicant Qwest Corporation

**WENDY J. CURTIS**, and  
**ALEXANDER K. DAVISON**, of Patton & Davison,  
Cheyenne, Wyoming  
for Intervenor, Contact Communications, Inc.

**ANTHONY M. REYES**, and  
**IVAN H. WILLIAMS**, Cheyenne, Wyoming,  
for Intervenor Consumer Advocate Staff of the  
Wyoming Public Service Commission

**HEARD BEFORE**

CHAIRMAN STEVE ELLENBECKER  
DEPUTY CHAIRMAN STEVE FURTNEY  
COMMISSIONER KRISTIN H. LEE

Chairman Ellenbecker, presiding

**ORDER CONFIRMING BENCH DECISION APPROVING STIPULATION OF  
PARTIES**

**(Issued August 23, 2002)**

This matter is before the Wyoming Public Service Commission, hereinafter referred to as the Commission, upon the application of Qwest Corporation, hereinafter referred to as Qwest or the Company, for authority to open an unbundled network elements Total Element Long Run Incremental Cost (TELRIC) docket and for approval of its TELRIC cost studies and related unbundled network element (UNE) and interconnection prices.

The Commission, having considered the evidence of record in this case, its files concerning the application, the Stipulation and Agreement submitted to the Commission at the public hearing as entered into between Qwest, Intervenor Contact Communications, Inc., hereinafter referred to as Contact, and Intervenor Consumer Advocate Staff of the Wyoming Public Service Commission, hereinafter referred to as the CAS, and having reviewed applicable Wyoming telecommunications utility law and being otherwise fully advised in the premises, FINDS and CONCLUDES:

### **FINDINGS ON PARTIES AND PROCEDURE**

1. On June 29, 2001, Qwest filed with the Commission, its Notice of Intent to Open an Unbundled Network Elements TELRIC docket in order to establish prices for unbundled network elements. Qwest stated that this notice was intended to give the Commission an opportunity to anticipate this filing as the Commission reviewed its schedule of proceedings for the year. Additionally, Qwest requested that the Commission assign a docket and record number, separate from the Qwest Section 271 proceedings, and set this matter for hearing in anticipation of this cost docket filing.

2. On July 31, 2001, Qwest filed its Application for Approval of TELRIC Cost Studies and Resulting Wholesale Prices. Qwest stated that in support of establishing permanent UNE and interconnection prices, the Company filed, with the Application, cost studies for UNEs which it offers and proposes to offer, for purchase by competitive local exchange carriers, hereinafter referred to as CLECs, in Wyoming. Further, Qwest provided cost studies which address the embedded avoided costs, which establish the appropriate discounts for the resale of services. Additionally, Qwest proposed a series of informal workshops to allow the Commission staff and other interested parties an opportunity to familiarize themselves with the cost mechanisms and issues in this matter. As part of its application, Qwest submitted the prefiled direct testimony of eight witnesses in support of its filing.

3. On August 20, 2001, the CAS filed its Notice and Petition to Intervene, with regard to this matter.

4. On August 29, 2001, the Commission issued its Notice of Application and Order Setting Prehearing Conference. By that Notice and Order, the Commission established October 5, 2001, as the deadline for filing interventions, and set a prehearing conference for October 11, 2001. The purpose of the prehearing conference was to address, among other things, Qwest's proposed informal workshop process regarding its application, a procedural schedule for processing the application, and any other procedural or substantive issues or matters associated with the filing that the Commission, Qwest or any party wished to raise. The Notice was



published in the Casper Star Tribune and the Wyoming Tribune Eagle. Public Service Announcements regarding the Notice were broadcast on *KUWR-FM* and *KGAB-AM*.

5. On September 4, 2001, the Commission sent copies of the Notice of Application and Order Setting Prehearing Conference to all competitive and incumbent local exchange telecommunications companies with certificate authority to provide telecommunications services within the state of Wyoming.

6. The intervention of CAS was approved by Commission Order issued on September 4, 2001.

7. On September 11, 2001, Contact filed its Petition for Leave to Intervene. In its Petition, Contact stated that Qwest's application raised issues which directly relate to the prices and availability of services of Qwest, which are or may be provided to Contact.

8. On September 18, 2001, the Commission issued its Special Order Authorizing One Commissioner And/Or Hearing Examiner, to preside over the scheduled October 11, 2001, prehearing conference.

9. The intervention of Contact was approved by Commission Order issued on September 19, 2001.

10. AT&T Communications of the Mountain States, Inc., hereinafter referred to as AT&T, filed its Petition to Intervene on September 27, 2001. In its Petition, AT&T stated that as a potential purchaser of UNEs from Qwest, AT&T would be directly affected by the prices determined in this docket.

11. On October 1, 2001, Qwest filed its Motion for Confidentiality Agreement, whereby Qwest stated that it might be necessary for it to provide documents which may contain confidential information, trade secrets, proprietary and/or commercially sensitive information. Qwest requested that the Commission approve a Confidentiality Agreement to assure Qwest that its confidential and proprietary information remain confidential.

12. AT&T filed on October 3, 2001, its Response to Qwest's Motion for Protective Order and Request for Modification of the Proposed Confidentiality Agreement. AT&T requested that Qwest pro-actively mark all cost studies that it considers to be confidential to avoid confusion among the parties. Additionally, AT&T proposed, *inter alia*, modifications to the Confidentiality Agreement to make the use of the confidential materials by authorized persons less burdensome.

13. The intervention of AT&T was approved by Commission Order issued on October 4, 2001.

14. On October 4, 2001, Contact filed its Objection to Qwest's proposed Confidentiality Agreement setting forth those provisions within the Confidentiality Agreement it opposed.

15. On October 9, 2001, AT&T filed with the Commission, eight Confidentiality Agreements, as signed by employees or representatives of AT&T having access to the Qwest cost studies. AT&T stated that the signed Confidentiality Agreements represent AT&T's agreement to be bound by the party-negotiated, Commission approved Confidentiality Order, and not the proposed Agreement as provided by Qwest.

16. Contact filed on October 9, 2001, its Amended Objection to Qwest Corporation's Proposed Confidentiality Agreement.

17. On October 10, 2001, Qwest filed its Prehearing Conference Memorandum in which Qwest argued that nothing in the federal Telecommunications Act of 1996 (federal Act) or prior Federal Communications Commission (FCC) Section 271 Orders, required completion of UNE rate proceedings before a Bell Operating Company may file for Section 271 approval. Qwest further argued that the rates developed as a result of the U S West/AT&T arbitration, as contained in Docket Nos. 70000-TF-96-319 and 72000-TF-96-95, complied with the cost-based pricing requirements of the federal Act. Qwest asserted that the TELRIC docket filing should be separately docketed from the previously filed Section 271 proceedings in Docket No. 70000-TA-00-599. The Prehearing Conference Memorandum also contained Qwest's proposed procedural schedule for consideration by the Commission.

18. On October 11, 2001, the Commission held a prehearing conference, with regard to this matter. The central procedural issue addressed at the prehearing conference was whether there should be a connection and/or consolidation of the TELRIC proceeding with the ongoing Qwest workshop process in anticipation of an application with the FCC for relief under Section 271 of the federal Act, in Docket No. 70000-TA-00-599; and whether these two docketed matters should be processed on separate and independent tracks. All parties to the proceeding appeared and were given the opportunity to participate fully in the proceedings.

19. On October 12, 2001, Qwest filed, with the Commission, Confidentiality Agreements between Qwest and Contact, and Qwest and AT&T.

20. On October 15, 2001, AT&T filed its proposed procedural schedule stating that Qwest's proposed procedural schedule contained conflicting dates, and prematurely cut off the Intervenor's rights to conduct discovery in preparation for their cases.

21. CAS filed on October 19, 2001, its Response to Qwest's Prehearing Conference Memorandum. In its Response, CAS argued, *inter alia*, that while the federal Act does not require completion of a cost docket as part of the Commission's consideration of Qwest's Section 271 compliance, the federal Act does not preclude the Commission from completing a TELRIC cost/pricing docket, such as that currently pending before this Commission, in making a determination that a Bell Operating Company, such as Qwest, has met the requirements of the federal Act when rendering a decision in the current Section 271 Proceeding.

22. On October 22, 2001, AT&T filed its Response to Qwest's Prehearing Conference Memorandum arguing among other things, Section 271 of the federal Act requires that Qwest

prove its compliance regarding UNE rates, and that to date, no Regional Bell Operating Company has received Section 271 approval from the FCC without a positive recommendation from the state commission. AT&T further argued that Qwest had not proven in either Qwest's Section 271 proceeding or in the U S West/AT&T arbitration that Qwest's UNE rates are compliant. In fact, AT&T stated that Wyoming never issued a clear and final order on UNE rates in the U S West/AT&T arbitration.

23. On October 22, 2001, Contact filed its Reply to Qwest's Prehearing Conference Memorandum. In its Reply, Contact's responses closely mirrored those of AT&T and the CAS, arguing that the TELRIC docket is a necessary element of proof in the Qwest Section 271 proceeding. Contact further argued that if the rates from the U S West/AT&T arbitration were not fully established, the Commission must question whether these rates meet the pricing requirements of § 271(c)(2)(B)(ii) and the FCC's rules, relating to UNE rates.

24. Qwest filed, on October 30, 2001, its Motion for Leave to File Reply to Comments on its Prehearing Conference Memorandum and its Reply to the Comments filed by the CAS, AT&T, and Contact. In its Motion, Qwest stated that in its Prehearing Conference Memorandum, Qwest sought only to demonstrate that this cost docket and the pending Section 271 proceeding should go forward as separate, independent proceedings. Further, Qwest requested that it be given the opportunity to reply to the responses of the CAS, AT&T, and Contact. In its Reply, Qwest stated, among other things, that there is no valid reason to consolidate or otherwise link this proceeding with Qwest's pending Section 271 proceeding.

25. On November 2, 2001, Qwest filed its Motion for Proposed Procedural Schedule, with regard to this matter.

26. CAS filed on November 5, 2001, its Response to Qwest's Motion for Proposed Procedural Schedule, whereby CAS requested that the Commission render a decision regarding the relationship between this docket and the Multi-state Section 271 workshops, before it enters a procedural schedule. CAS further requested that the Commission deny Qwest's Motion for Proposed Procedural Schedule.

27. On November 5, 2001, Contact filed its Response to Qwest's Motion for Proposed Procedural Schedule. On November 8, 2001, AT&T filed its Response to Qwest's Motion for Proposed Procedural Schedule.

28. The Commission at its regular open meeting on November 15, 2001, adopted a procedural schedule in this matter.

29. On November 20, 2001, Qwest filed its Request for Reconsideration of Decision Adopting Procedural Schedule, with regard to this matter.

30. On December 17, 2001, the Commission issued its Order on Procedural Matters and Notice Setting Procedural Schedule and Public Hearing. By that Notice and Order, the Commission established a number of procedural dates and a public hearing date of June 17, 2002. The Notice was published in the Casper Star Tribune and the Wyoming Tribune Eagle and

mailed to the parties of record. Public Service Announcements regarding the Notice were broadcast on *KUWR-FM* and *KGAB-AM*.

31. Qwest filed on January 16, 2002, its Petition for Rehearing stating among other things, that the Commission's December 17, 2001, Order, delayed Qwest's Section 271 recommendations until the TELRIC cost docket was complete, and was therefore, contrary to law. Further, Qwest stated that if the Commission allowed the Section 271 recommendations to progress prior to completion of this cost docket, Qwest was willing to commit to retroactive price adjustments for all UNE prices that had not been previously reviewed by the Commission.

32. On January 28, 2002, the CAS filed its Response to Qwest's Petition for Rehearing. In its Response, the CAS argued that Qwest's petition presented the same arguments considered by the Commission at the October 11, 2001, prehearing conference. CAS reiterated its arguments as presented at the prehearing conference, and requested that the Commission deny the Petition for Rehearing, and affirm its decision pursuant to its Order on Procedural Matters and Notice Setting Procedural Schedule and Public Hearing, issued on December 17, 2001.

33. Contact filed on January 30, 2002, its Response to Qwest's Petition for Rehearing. In its Response, Contact reiterated its arguments as presented at the October 11, 2001, prehearing conference, and requested that the Commission deny Qwest's petition, and affirm its decision as stated in the Order on Procedural Matters and Notice Setting Procedural Schedule and Public Hearing, issued on December 17, 2001. Additionally, Contact filed its Motion for Extension of Time Within Which to File Responses to Qwest's Petition for Rehearing.

34. On February 6, 2002, Qwest filed its Reply to the Intervenor's responses to Qwest's Petition for Rehearing. In its Reply, Qwest reiterated its proposal for a retroactive true-up for all UNE prices not previously established. Further, Qwest requested that the Commission reconsider its December 17, 2001, Order.

35. On February 14, 2002, the Commission issued its Notice and Order Granting and Setting Rehearing and a separate Special Order Authorizing One Commissioner And/Or Hearing Examiner to Conduct Public Hearing regarding the rehearing. This matter was set for rehearing on February 25, 2002. The Notice was published in the Casper Star Tribune and the Wyoming Tribune Eagle and mailed to the parties of record. Public Service Announcements regarding the Notice were broadcast on *KUWR-FM* and *KGAB-AM*.

36. Qwest filed on February 19, 2002, the exhibits to the testimony of Robert Kennedy, with regard to this matter.

37. Contact filed on February 21, 2002, its Motion for Witness to Appear by Telephone.

38. Pursuant to the Notice and Order Granting and Setting Rehearing, and in accordance with the Wyoming Administrative Procedure Act and the Commission's Procedural Rules and Regulations, the Commission held the rehearing on February 25 and 26, 2002, with regard to this matter. Applicant Qwest, Intervenor CAS, and Intervenor Contact appeared and

were given the opportunity to participate fully in the rehearing. Legal counsel represented each of the parties.

39. On February 25, 2002, Qwest filed its Hearing Memorandum to provide additional information requested by the Commission. Qwest further requested the Commission reverse its decision to link this cost docket with the Qwest Section 271 proceedings.

40. On February 26, 2002, Qwest filed its Late Filed Exhibits and Contact filed its Confidential Late Filed Exhibit SAM-1, with regard to this matter.

41. Contact filed on March 5, 2002, its Certificate of Filing Late Filed Exhibit SAM-1.

42. AT&T filed on March 15, 2002, its Notice of Withdrawal from this TELRIC proceeding. In its Motion, AT&T stated that due to resource constraints, AT&T would not be able to fully participate in the proceedings, and therefore, it would be necessary to withdraw. Further, AT&T stated that it did not in any way approve, endorse or otherwise sanction Qwest's costs or advocacy related thereto. AT&T's Motion was granted by Commission Order issued on March 25, 2002.

43. On March 15, 2002, Contact filed the testimony of Steven A. Mossbrook and Arlen Taggart, with regard to this matter. CAS also filed on March 15, 2002, the testimony and exhibits of Bryce J. Freeman and Marci L. Norby.

44. On March 18, 2002, Contact filed its Motion to Accept Late Filed Testimony of Steven A. Mossbrook. Pursuant to open meeting action taken on March 21, 2002, Contact's Motion was approved by Commission Order issued on March 25, 2002.

45. Pursuant to the provisions of W.S. § 16-4-403, the Commission held public deliberations with regard to the rehearing on March 22, 2002.

46. Contact's Motion to Submit Late Filed Testimony was approved by Commission Order issued on March 25, 2002.

47. On April 19, 2002, the Commission issued its Order on Rehearing, whereby the Commission rescinded the language contained in the Commission's December 17, 2001, Order on Procedural Matters and Notice Setting Procedural Schedule and Public Hearing, as set forth in paragraph 15, that the TELRIC process in this docketed matter be completed and a decision rendered prior to the Commission's completion of its review and rendering of a decision regarding Qwest's Section 271 Proceeding in Docket No. 70000-TA-00-599. The Commission in its Order on Rehearing also accepted Qwest's proposal for a retroactive true-up of all UNE prices not previously reviewed or established by the Commission.

48. On May 10, 2002, Qwest filed, with the Commission, Rebuttal Testimonies and confidential exhibits of Teresa K. Million, Georganne Weidenbach, Renee Albersheim, D.M. (Marti) Gude, and the adoption and Errata testimony of William R. Easton.

49. On May 20, 2002, the Commission reissued public notices and Public Service Announcements with regard to the June 17, 2002 public hearing in this matter. The notices were published in the Casper Star Tribune and the Wyoming Tribune Eagle and mailed to the parties of record. Public Service Announcements regarding the Notice were broadcast on *KUWR-FM* and *KGAB-AM*.

50. Qwest filed on June 12, 2002, its Supplemental Exhibit to the Rebuttal Testimony of Teresa K. Million. Contact also filed on June 12, 2002, its Motion to Compel Qwest to respond to Contact's First Set of Data Requests served to Qwest on May 20, 2002.

51. On June 14, 2002, the Commission issued its Special Order Authorizing One Commissioner And/Or Hearing Examiner to Preside over the June 17, 2002, public hearing regarding this TELRIC matter.

52. Pursuant to the Commission's Orders, and in accordance with the Wyoming Administrative Procedure Act and the Commission's Procedural Rules and Regulations, the Commission held the public hearing regarding this TELRIC matter on June 17-19, 2002. All the parties appeared and had a full opportunity to present evidence, to cross-examine witnesses and otherwise participate in the proceedings. Qwest, Contact, and the CAS offered into evidence a Stipulation and Agreement, hereinafter referred to as the Stipulation, which was entered into and submitted to the Commission at the public hearing on June 19, 2002. The Stipulation addressed and resolved issues existing as between the parties.

53. On June 19, 2002, the Commission deliberated this matter and issued a bench decision whereby the Commission adopted the Stipulation and approved the rates as supported in the Stipulation. The Company was further directed to submit its Compliance Filing with an effective date of July 1, 2002.

54. Qwest filed on June 25, 2002, its Compliance Filing. On June 26, 2002, Qwest filed its Revised Compliance Filing Exhibit A to correct errors contained in its June 25, 2002, Compliance Filing.

55. On June 27, 2002, Contact filed its Response to Qwest's compliance filing, stating its position that the Stipulation should not be construed nor does it resolve service offering issues currently pending in the Section 271 proceeding.

56. The Commission at its regular open meeting of June 28, 2002, accepted Qwest's revised Compliance Filing Exhibit A, with an effective date of July 1, 2002.

## **FINDINGS OF FACT**

### **Summary of Qwest's Evidence:**

57. Mr. Mike McNulty testified on behalf of Qwest, as Director of Regulatory Affairs for Wyoming. Mr. McNulty's oral summary testimony, which was presented at the June 17, 2002, hearing, supplemented his prefiled direct testimony which provided an overview of Qwest's TELRIC filing. (Qwest Exhibit 1.) Mr. McNulty testified that Qwest is committed to a true-up for those particular services that were not covered through the U S West/AT&T arbitration, as was pledged to as part of the rehearing process which separated the pending Section 271 proceeding from this TELRIC docket. He stated that Qwest would notify the Commission and the respective CLECs of their true-up amounts. (Tr., p. 60.)

58. Ms. Teresa K. Million testified on behalf of Qwest, as Director, Service Cost, in the Policy and Law Department. Ms. Million testified with regard to Qwest's TELRIC models and studies. Ms. Million's oral summary testimony, which was presented at the June 17, 2002, hearing, supplemented her prefiled direct testimony, rebuttal testimony, and exhibits. (Qwest Exhibits 2 and 3, respectively.) Ms. Million stated that Qwest's TELRIC models and studies properly apply the FCC's TELRIC principles and provide a reasonable basis for the pricing of wholesale elements. She noted that Qwest's studies look at the entire element, at the technologies that are either in place or are expected to be deployed in the future, as well as what a forward-looking network would be, and then those investments are reflected in the study. Ms. Million further noted that Qwest also applied an inflation factor to the investments to reflect ongoing inflation. Ms. Million referenced proposed adjustments by the CAS to the Company's studies, and indicated that they had addressed CAS' concerns and/or did not object to these adjustments at this time. (Tr. Vol. I, pp. 72-75.) Ms. Million testified that Qwest had developed a quote preparation fee for cable augments in response to Contact's issue with regard to collocation. Ms. Million further testified to the process that Qwest goes through to develop its time estimates and probability estimates with regard to recurring charges. (Tr., Vol. I, pp. 69, 76-78.)

59. Ms. Million testified that pursuant to the Stipulation (Joint Exhibit 1), as signed by Qwest, the CAS, and Contact and offered into evidence at the June 19, 2002, hearing, most of the rates contained in the Stipulation incorporate CAS' proposed adjustments and are based on Qwest's TELRIC studies, as presented during this proceeding. With respect to wholesale discount amounts, Ms. Million testified that the Stipulation reflects the discounts from Colorado's current Statement of Generally Available Terms (SGAT). She noted that the wholesale discounts, contained in the Stipulation, are higher than what Qwest had originally proposed, but were on a more service-specific basis. Additionally, she noted that the end result is a composite wholesale discount rate of 16.8 percent, which refers to, among other services, directory assistance and operator services. (Tr., Vol. III, pp.18-19.)

60. Ms. Million testified that Qwest would need to rerun a number of the individual stand alone cost studies with the CAS adjustments in them. She noted that Qwest would be willing to make a compliance filing to provide the Commission with new rates modified to reflect the CAS adjustments. Ms. Million testified that the collocation rates, as contained in section 8.0 of the Stipulation, are rates that were established by the Colorado Commission in its TELRIC proceeding and are reflected in the Colorado SGAT. She explained that the inputs that go into the collocation study are regional in nature or are common to all its states. Therefore, she explained that they represent a reasonable TELRIC rate. (Tr., Vol. III, pp. 20-22.)

61. Ms. Million testified that the interconnection tie pair rates, as contained in the Stipulation, would need to be rerun in order to produce those rates based on the CAS adjustments. She stated that she believed that the unbundled loop rates were a part of the ICM output and had been modified for the CAS adjustments. She further explained that nonrecurring rates, such as cable unloading, bridge tap removal rate, and loop installation rates, were within a reasonable range because nonrecurring rate studies are developed using time estimates and probability estimates that are determined for the entire 14 state region and represent an average. (Tr., Vol. III, pp. 22-23.)

62. Ms. Million further testified as to the remaining rates that were agreed upon under the terms of the Stipulation, and how those rates were derived. She noted that the Stipulation still contained rates that needed to be updated for the CAS adjustments. She reiterated that Qwest would make these adjustments as a compliance filing. (Tr., Vol. III, pp. 25-32.)

63. Ms. Million next testified to the process that Qwest would go through to adjust the rates that need to be adjusted. She testified that the 12.74 percent productivity factor and the switching maintenance factor, as contained in the Stipulation, would be utilized in a rerun of the expense factors model, resulting in new vintage factors that will be used for other elements. The Qwest analysts, she stated, would then rerun all of their studies using the new factor file that is the result of the CAS adjustments, and produce new rates. She testified that the updated factor model would then be filed with the compliance filing. Ms. Million further testified that pursuant to the Stipulation, Qwest agreed to a formal filing of new studies, and a review of rates, two years from the date of the final Commission Order approving the Stipulation. (Tr., Vol. III, pp. 33-35.)

64. Ms. Million testified that the rates listed under the quote preparation fee, are the same as rates in Colorado. With respect to the augment quote preparation fee of \$1,055.50, she testified that too was the same price as in Colorado. She noted that the augment quote preparation fee would not be listed as a cable augment, but rather it would be listed as an augment quote preparation fee. (Tr., Vol. III, pp. 36-38.)

65. With respect to the estimated wholesale discount percentages under the Stipulation, Ms. Million stated that while Qwest still believes that the rates that it had originally proposed were appropriate, Qwest had been willing to compromise in order to reach an agreement with the Intervenor. She reiterated that in two years, Qwest would make a complete TELRIC cost study filing of all of the elements and rates that are available. (Tr., Vol. III, pp. 39-42.)

66. Ms. Million concluded that it was her view, and that of Qwest, that the rates resulting from the Stipulation are just and reasonable, and consistent with TELRIC standards and other FCC legal requirements. (Tr. Vol. III, p. 34.)

67. Mr. Dick Buckley testified on behalf of Qwest, as Staff Advocate, Policy and Law. Mr. Buckley testified with regard to Qwest's loop investment model, and its default inputs. Mr. Buckley's oral summary testimony, which was presented at the June 17, 2002, hearing,



supplemented his prefiled direct testimony and exhibits. (Qwest Exhibit 4.) Mr. Buckley stated that the model is designed to estimate investments for a telecommunications network utilizing forward-looking technologies with sufficient capacity to meet requests for service in a timely manner. He testified as to how the model utilizes design criteria and information on what Qwest actually pays for purchasing and placing outside plant cabling and equipment in Wyoming. He further testified as to the various inputs to the model, and the different results that may occur. (Tr., Vol. I, pp. 179-184.)

68. Georganne Weidenbach testified on behalf of Qwest, as Director in the Technical Regulatory Group, Local Network Organization. Ms. Weidenbach's oral summary testimony, which was presented at the June 17, 2002, hearing, supplemented her prefiled direct testimony, rebuttal testimony, and exhibits. (Qwest Exhibits 5 and 6.) Ms. Weidenbach's testimony identified and discussed the work functions and options and elements associated with providing collocations such as virtual, caged, physical, cageless physical, remote collocation and virtual remote collocation. Her testimony further identified the specific facilities and activities that are essential in provisioning line sharing. Additionally, she testified in support of the engineering input assumptions in the loop module of Qwest's integrated cost model. Ms. Weidenbach asserted that the inputs are reasonable and represent forward-looking engineering assumptions. (Tr., Vol. I, pp. 202-204, 209-210.)

69. Ms. Weidenbach's testimony, as presented at the June 19, 2002, hearing, regarded the terms and agreements as contained in the Stipulation. She testified with respect to Contact's needs and requirements in the state of Wyoming with regard to a bulk deload project. She noted that Qwest did not currently offer such a product, but Qwest would look into all the details and would then present those details through the product process and through the Change Management Process. This product, she testified, would then be available to the public if it was determined that the product should be offered. (Tr., Vol. III, p. 59.)

70. Mr. William Easton testified on behalf of Qwest, as Director of Wholesale Advocacy. Mr. Easton's testimony was based on the adoption and errata testimony of Mr. Robert F. Kennedy. (Qwest Exhibits 9 and 10, respectively) Mr. Easton's testimony provided a description of Qwest's products and services, and the applicable recurring and nonrecurring charges for those products and services, which Qwest proposed in this proceeding. He testified that the products and elements, which Qwest offers, meet the obligations, as set forth in the federal Act. Additionally, he noted that Qwest also seeks to provide options and services to meet the varying needs of the CLECs. (Tr., Vol. I, p. 213.)

71. Ms. Marti Gude testified on behalf of Qwest, as Director of Cost Accounting. Ms. Gude's summary testimony as presented at the June 19, 2002, hearing, addressed how the composite rate for the wholesale discount was calculated. She noted that the composite rate for the wholesale discount that is being proposed in the Stipulation is the same as Colorado's composite avoided cost discount. Ms. Gude testified that the composite is a weighting between the residence, the business, the private line, and the features. It encompasses all of the components that go into the individual products, but is a weighted average for Wyoming. (Tr., Vol. III, pp. 62-63.)

**Summary of Contact's Evidence:**

72. Mr. Steven A. Mossbrook testified at the June 19, 2002, hearing on behalf of Contact as President and Chief Executive Officer. Mr. Mossbrook had previously submitted his prefiled testimony and late-filed exhibit which provided an overview of Contact's position regarding Qwest's TELRIC filings, as well as addressed specific issues of concern to Contact. (Contact Exhibits SAM-1 and SAM-2.) Mr. Mossbrook testified with regard to the Stipulation. He stated that the Stipulation was a fair compromise of Contact's positions, and offered reasonable results for Contact as it related to its issues raised in this proceeding. With respect to the provisioning of a bulk deload project, he testified that Contact believed that the cost study had already been preformed in the Qwest bulk deload project, and was simply just a matter of compiling the results, some of which were specific to Wyoming. He noted that Contact had numbers for Casper, Cheyenne, and Laramie bulk deload projects that had been submitted during discovery for this proceeding. Therefore, information was available which would make the provisioning of a bulk deload rate a simpler process. (Tr., Vol. III, pp. 69-70.)

73. Mr. Mossbrook testified that while Contact had originally indicated that with regard to line sharing, the voice service provider should be responsible for the cost of the line, Contact had agreed to the \$4.89 charge for line sharing since Contact's interconnection agreement is immune from the change from the TELRIC proceeding. Therefore, he stated that Contact would not be affected by this charge. He explained that Contact was in the national line sharing agreement, which is available to CLECs in Wyoming who adopt the entire agreement in total. He further explained that Contact had a specific interconnection agreement, which provided for immunity from automatic changes subject to TELRIC. He testified that Contact anticipated providing voice grade service within a year and would then modify Contact's business plan according to the outcome of this proceeding. He explained that Contact was not able to provide factual support to Contact's original position that the voice service provider should bear the cost for line sharing, in order for Contact to prevail. (Tr., Vol. III, pp. 71-72.)

**Summary of CAS' Evidence:**

74. Ms. Marci Norby testified at the July 19, 2002, hearing, on behalf of the CAS. Ms. Norby testified that the CAS, through its prefiled testimony and exhibits (CAS Exhibit 1 and 2.) had expressed its concerns regarding the Company's productivity factor, the digital electronic equipment/switching maintenance factor, wholesale discount rates, and the need to reexamine TELRIC costs in two years' time, and line sharing. She stated that the Stipulation had provided for a reasonable resolution of the CAS' concerns. Ms. Norby explained that the Stipulation uses the Colorado SGAT for the wholesale discount rate, collocation, CLEC-to-CLEC connections, line sharing, per loop charges, nonrecurring loop installation costs; and, it uses the Nebraska SGAT for deloading. Additionally, the Stipulation included the CAS advocated productivity factor of 12.74 percent, addressed the CAS' concerns for reexamining the TELRIC cost studies in two years' time, and anticipated the changes that CAS made to the digital electronic equipment/switching maintenance factor. (Tr., Vol. pp. 76-78.)

75. She testified that she believed that the Stipulation was in the public interest because it facilitates a competitive environment, and provides for a reexamination of the

TELRIC cost study in two years' time. Ms. Norby noted that the prices and provisions within the Stipulation are within a range of reasonableness. Ms. Norby further noted that the activities and procedures performed in the collocation study and the nonrecurring cost study are similar from state to state; therefore, she concluded that the use of the Nebraska and Colorado costs were in an acceptable range of reasonableness. (Tr., Vol. III, p. 79,85.)

**Summary of the Stipulation and Agreement's Terms and Conditions:**

76. The terms and conditions contained in the Stipulation and Agreement which includes Exhibit A – Wyoming SGAT Rate Elements, as between the parties, provide, *inter alia*, for the following:

a. The Parties have agreed that the rates for UNEs, collocation and interconnection services, as set forth in Exhibit A, are reasonable, were established consistent with the TELRIC principles mandated by the federal Act and the FCC, fall within a reasonable range of TELRIC compliant rates, and the methodologies used to establish the rates comply with the FCC's TELRIC rules. Exhibit A contains currently available rates, prices and wholesale discount percentages for unbundled network elements, interconnection and collocation services offered by Qwest in Wyoming. Additionally, the wholesale discount rates, as set forth in Exhibit A, are also within a range of reasonable discount rates, are consistent with the discount rates in other Qwest states, and comply with the provisions of the federal Act.

b. Qwest is willing to consider a specific deload change request to be submitted by Contact, pursuant to the Change Management Process that Qwest currently has in place. Qwest requires that the request be submitted with a high level of detail so that Qwest may fully evaluate and respond to each request.

c. Qwest has agreed to a productivity factor level of 12.74%, as proposed by CAS. Qwest also agreed to CAS' proposed adjustment to the switching maintenance factor. The acceptance of CAS' adjustments will require further changes to the rates set forth in Exhibit A, to the Stipulation.

d. The Parties have agreed to accept TELRIC rates established by the Colorado Public Utilities Commission for collocation elements and non-recurring rates for loop provisioning. The Parties further agree that those rates were established on the basis of regional inputs to Qwest's studies and fall within a reasonable range of TELRIC rates in Wyoming.

e. In the event that Exhibit A does not accurately reflect the TELRIC rates or adjustments, Qwest has agreed to provide those corrections in a compliance filing.

**COMMISSION ULTIMATE FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

77. Qwest is a telecommunications company as defined by W.S. § 37-15-103(a)(xi) and as such, is subject to the jurisdiction of this Commission pursuant to the provisions of W.S. § 37-15-401.

78. Proper notice of the application and public hearing in this matter was given in full compliance with the requirements of the Wyoming Administrative Procedure Act, and the relevant provisions of the Commission's Procedural Rules and Special Regulations. All proceedings in this matter have in all respects been conducted in compliance with the requirements of the Wyoming Administrative Procedure Act and the Commission's Rules.

79. The interventions of Contact and the CAS were properly granted and those entities became parties to this proceeding as defined in the Wyoming Administrative Procedure Act. The intervention of AT&T having been withdrawn with the approval of the Commission, AT&T is not now a party to this proceeding.

80. Public deliberations were held, with regard to this matter, pursuant to the provisions of W.S. § 16-4-403.

81. The Commission may approve a stipulation or agreed upon settlement as a means of disposing of any matter coming before it at hearing, pursuant to Commission Rule Section 119.

82. The Commission had previously determined as part of this proceeding, that the concerns expressed by the Intervenors relating to the pricing of UNEs were important considerations. In addressing these concerns, as well as its reconsideration of the Qwest request that its Section 271 proceeding and this TELRIC proceeding go forth on separate and independent tracks, the Commission accepted in its Order on Rehearing, issued on April 19, 2002, Qwest's offer for a retroactive price adjustment for UNE prices that had not been previously reviewed or established by this Commission.

83. The Commission finds that Qwest, through its presentation of its substantial and substantive evidence at hearing, has generally supported the underlying inputs, factors, elements and methodologies that comprise its TELRIC models and studies. Qwest's TELRIC models and studies adequately identify and reflect least cost, forward-looking technologies and operations currently available, as well as the forward-looking, long run direct, shared and common costs of providing interconnection services, collocation services, or unbundled network elements. The Commission further finds that the revisions to several of the factors to the TELRIC models and studies that were advocated by the Consumer Advocate Staff, and accepted by the Parties as part of the stipulated settlement in this case are reasonable.

84. The Commission further finds and concludes that the stipulated rates and wholesale discounts for UNEs, collocation and interconnection services as reflected in the Revised Compliance Filing Exhibit A, which was filed on June 26, 2002, and accepted at the Commission's open meeting on June 28, 2002, with an effective date of July 1, 2002, are reasonable and were established in a manner consistent with TELRIC principles that have been mandated by the federal Act in section 252(d) and promulgated by the FCC initially in its Local Competition Order. The FCC's authority to use TELRIC as the pricing standard was recently upheld by the U.S. Supreme Court. It was represented by CAS at the Commission's open meeting that the appropriate and necessary individual stand-alone cost studies had been properly

rerun by Qwest and that the Revised Compliance Filing Exhibit A of June 26, 2002, contained the modified rates pursuant to the Stipulation. The Commission further finds that the wholesale discount rates, as referenced in the Stipulation and as revised and corrected in the Revised Compliance Filing Exhibit A, which were based upon the requirement of section 252(d)(3) of the federal Act, and are consistent with discount rates that have been found to be reasonable in other states, constitute and provide reasonable and appropriate wholesale discount rates for the Company's operations in the state of Wyoming.

85. The Commission concludes that the Stipulation, entered in by the Parties, represents a just, equitable and reasonable resolution of the issues in this TELRIC proceeding. The Commission further concludes that approval of the Stipulation facilitates a competitive environment, and therefore, approval of the Stipulation is in the public interest.

IT IS THEREFORE ORDERED THAT:

1. Pursuant to the bench decision rendered by the Commission at the conclusion of the public hearing held in this matter on June 17-19, 2002, the application of Qwest Corporation for approval of its TELRIC cost studies and its TELRIC-based Unbundled Network Element, collocation, interconnection prices, and wholesale discount rates, as revised by the terms and conditions set out in the Stipulation and Agreement entered into by the Parties, attached hereto and by this reference incorporated herein as Appendix A, and the Revised Compliance Filing Exhibit A, attached hereto and by this reference incorporated herein as Appendix B, be, and the same is hereby, approved effective July 1, 2002.

2. Qwest is hereby directed to provide a true-up for retroactive price adjustments for UNE prices that have not been previously reviewed or established by this Commission, as directed in the Commission's Order on Rehearing issued on April 19, 2002. Qwest is directed to notify and advise the Commission and the respective competitive local exchange companies (CLECs) of their respective true-up amounts, within 45 days of the issuance of this order, and is directed to provide the Commission with a complete list of all services or UNEs and associated prices that have been subjected to the true-up procedure, as well as a description of the manner in which the true-up was conducted.

3. This Order is effective immediately.

MADE AND ENTERED at Cheyenne, Wyoming this 23<sup>rd</sup> day of August, 2002.

PUBLIC SERVICE COMMISSION OF WYOMING

/s/ Steve Ellenbecker  
STEVE ELLENBECKER, Chairman

/s/ Steve Furtney  
STEVE FURTNEY, Deputy Chairman

/s/ Kristin Lee  
KRISTIN LEE, Commissioner

(SEAL)

ATEST:

/s/ David J. Lucero  
DAVID J. LUCERO, Assistant Secretary

**BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING**

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<b>IN THE MATTER OF QWEST</b>	<b>:</b>	<b>DOCKET NO. 70000-TA-01-700</b>
<b>CORPORATION'S REQUEST</b>	<b>:</b>	<b>Record No. 6768</b>
<b>TO OPEN AN UNBUNDLED</b>	<b>:</b>	
<b>NETWORK ELEMENTS TELRIC</b>	<b>:</b>	
<b>COST DOCKET</b>	<b>:</b>	

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**STIPULATION AND AGREEMENT**

This Stipulation and Agreement ("Stipulation") is entered into between Qwest Corporation (Qwest), Contact Communications (Contact), and the Consumer Advocate Staff (CAS) (hereinafter collectively referred to as "the Parties").

**BACKGROUND**

1. On July 31, 2001, Qwest initiated this docket, in which it requested the Public Service Commission of Wyoming (Commission) to (1) examine and determine the appropriate rates for unbundled network elements (UNEs) and interconnection services and (2) examine and determine the appropriate level of resale discounts on retail services resold by CLECs.
2. Coincident with the filing of its Application, Qwest filed the testimony and exhibits of Michael McNulty, Teresa K. Million, Richard Buckley, Georganne Weidenbach, Renee Albersheim, Robert Kennedy, Kathryn Malone, and D. M. (Marti) Gude. William Easton later adopted the testimony and exhibits of Mr. Kennedy. Ms. Million presented the cost

studies that formed the basis for the pricing proposals for UNEs and interconnection services, both recurring and nonrecurring. Ms. Gude presented Qwest's avoided cost study for retail services resold by CLECs.

3. Thereafter, Contact and AT&T of the Mountain States intervened in the case. AT&T later withdrew from the case.
4. CAS also intervened as a party to this proceeding, separate and apart from the Commission.
5. In November and December 2001, Qwest conducted two two-day informal workshops in Denver, Colorado to review its cost studies, proposed prices and other matters of interest to the parties. Representatives of CAS attended both workshops. Representatives of Contact attended the first workshop.
6. On March 15, 2002, CAS filed the direct testimony of Bryce J. Freeman and Marci L. Norby. Contact filed the direct testimony of Steven A. Mossbrook and Arlen Taggart. On March 18, 2002, Contact filed supplemental testimony from Mr. Mossbrook.
7. On May 10, 2002, Qwest filed the rebuttal testimony of Ms. Million, Ms. Albersheim, Ms. Gude, and Ms. Weidenbach.
8. Prior to the commencement of the hearing, Ms. Norby filed an updated exhibit reflecting an additional proposed adjustment to Qwest's cost study. Ms. Million filed an additional cost study proposing a new collocation element--Simple Cable Augment QPF.
9. Hearings commenced before the Commission on June 17, 2002. On June 18, 2002, the parties commenced settlement negotiations to fully resolve all issues in this matter, which resulted in this Stipulation.



**OPERATIVE PROVISIONS**

10. The Parties stipulate that the prices for UNEs and interconnection services and the resale discounts set forth in the document attached hereto as Exhibit A should be adopted by the Commission in full and complete resolution of the pricing issues in this matter. The Parties hereby request that the Commission approve the Stipulation upon submission and enter a final order as soon as possible in this matter adopting those rates as final rates in this matter. The Parties further agree to support those rates as just and reasonable. Within no more than ten days of the Commission's approval of the Stipulation, Qwest will file a new Statement of Generally Available Terms (SGAT) that will include the rates and discount levels set forth in Exhibit A.
11. Approval of the Stipulation by the Commission shall constitute a full and final resolution of all outstanding issues in this proceeding.
12. The Parties stipulate that the rates for UNEs and interconnection services set forth in Exhibit A are reasonable, were established consistent with the TELRIC principles mandated by the Federal Act and the FCC, fall within a reasonable range of TELRIC-compliant rates, and the methodologies used to establish the rates comply with the FCC's TELRIC rules. Likewise, the Parties stipulate that the resale discounts set forth in Exhibit A are within the range of reasonable discount rates reflected in the testimony and exhibits in this matter, are consistent with discount rates in other Qwest states, and comply with the provisions of the Federal Act.
13. Qwest agrees that, within two years from the date of the final written order approving this Stipulation, it will file new TELRIC cost studies with the Commission and agrees that the rates for UNEs and interconnection services may be reconsidered at that time by

the Commission. There shall be no commitment thereafter by any party on the timing of any future dockets to consider TELRIC cost studies.

14. The Parties acknowledge that Contact has expressed concerns about the manner in which conditioning (removal of bridged taps and load coils) is offered by Qwest. In response to those concerns, Qwest is willing to consider a specific deload change request to be submitted by Contact which contains detailed terms of the precise request. This project request shall be submitted to Qwest pursuant to the Change Management Process (CMP) that Qwest has currently in place to consider such requests from Contact or any other CLEC. In order to fully evaluate and respond to such a request, the request must be submitted with a high level of detail.
15. The Parties agree that this Stipulation represents a just, equitable and reasonable resolution of issues, which were or could be contested by the Parties, in this docket. The Parties further acknowledge that this Stipulation is the product of negotiations and compromise and shall not be construed against any party, including the drafter. This Stipulation represents the compromise by each party of issues important to that party. Each party has been willing to forego positions advocated in this proceeding in exchange for the reasonable compromises on the same or other issues by other parties to this case. The Stipulation thus depends upon the mutually dependent compromises of the other parties. Therefore, if the Commission does not approve the Stipulation in total, each party reserves the right to withdraw therefrom without prejudice and the hearing shall recommence. The Parties further agree that, in the event the Stipulation is not approved in total, neither the fact that a Stipulation was entered nor any of the terms of the Stipulation

shall be included in the record in this case nor may it be relied on by the Commission in reaching its decision.

16. CAS proposed to adjust Qwest's productivity factor to a level of 12.74%, which impacts Qwest's expense factor calculation. Qwest agreed to accept a productivity factor at that level for purposes of resolving this case. All rates on Exhibit A associated with a Qwest study (as reflected by the study numbers noted on Exhibit A) will be adjusted to reflect that change. Qwest also accepted, for purposes of resolving this case, an adjustment proposed by CAS to the Switching Maintenance Factor. Qwest will make a compliance filing reflecting the adjusted productivity and Switching Maintenance Factor on or before July 1, 2002.
17. For purposes of settlement in this proceeding only, the Parties have agreed to accept TELRIC rates established by the Colorado Public Utilities Commission in effect as of the date of this agreement for (1) collocation elements (which are set forth on Exhibit A to this Stipulation as items 8.1 through 8.9 and item 9.1.2) and (2) non-recurring rates for loop provisioning (items 9.2.4.1 through 9.2.6.5). The Parties agree that those rates were established on the basis of regional inputs to Qwest's studies and fall within a reasonable range of TELRIC rates in Wyoming. In the event Exhibit A does not accurately reflect those particular rates, corrections shall be made in the compliance filing.
18. The Parties agree that in any future TELRIC docket in Wyoming, none of the positions agreed to by the Parties in this Stipulation nor any of the compromises made by a Party shall have any precedential effect. Each party shall be completely free to assert any position it chooses to advocate.

19. The Parties agree that upon execution of this Stipulation all outstanding discovery requests shall be deemed withdrawn by the party propounding them. However, in the event the Stipulation is not approved and the hearing recommences all currently outstanding data request shall be deemed to be reinstated.

DATED: June 19, 2002.

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On behalf of Qwest Corporation

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On behalf of Contact Communications

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On behalf of Consumer Advocate Staff